

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Commonwealth Edison Company :
: **Docket No. 10-0467**
Proposed General Increase in Electric :
Rates :

**PRE-HEARING MEMORANDUM OF THE COALITION
TO REQUEST EQUITABLE ALLOCATION OF COSTS TOGETHER**

The Coalition to Request Equitable Allocation of Costs Together (“REACT”), by and through its attorneys, DLA Piper LLP (US), respectfully submit this Pre-Hearing Memorandum, which summarizes the issues of major concern to REACT, identifies REACT witnesses who will testify on each those issues, and summarizes the pertinent basic facts and legal authority on each issue.¹ This Memorandum follows the Common Issues Outline circulated among the parties.

I.

INTRODUCTION / STATEMENT OF THE CASE

A. REACT

REACT is an *ad hoc* group, with diverse members, including some of the largest of ComEd’s commercial, governmental, and industrial delivery services customers as well as retail energy suppliers that are interested in providing service to residential and small commercial customers.² REACT’s members are committed to advocating that the Commission ensure

¹ REACT reserves the right to identify additional pertinent facts and legal authority as this case progresses. REACT further reserves the right to seek modification of the Common Issues Outline as the case progresses.

² The customer members of REACT currently are: A. Finkl & Sons Company; Aux Sable Liquid Products, LP; the City of Chicago; Flint Hills Resources, LP; FutureMark Paper Company (formerly known as the Alsip Paper Condominium Association); the Metropolitan Water Reclamation District of Greater Chicago; PDV Midwest Refining LLC; United Airlines, Inc.;

accurate, appropriate, and equitable allocation of ComEd's costs – both among its customer classes and between the supply and delivery services components of ComEd's rates. That is, the REACT members collectively **Request Equitable Allocation of Costs Together**.

REACT actively participated in all phases of both the 2007 ComEd Rate Case, ICC Docket No. 07-0566, and the resulting Special Investigation Proceeding, ICC Docket No. 08-0532, presenting substantial expert testimony and argument in support of fair, accurate, and equitable rate design that (1) avoids penalizing the largest customers based upon a fundamentally flawed cost study; and (2) allocates Customer Care Costs consistent with principles of cost causation, development of retail electric competition for residential customers, and fair treatment of all customers and suppliers.

REACT's over-10 MW (i.e., Extra Large Load) commercial, industrial, and municipal customer-members are each substantial employers in the state, and important members of the community in Northern Illinois that represent a part of the economic engine that drives the larger Illinois economy. Rate design issues -- particularly focusing on accurate ratemaking that properly accounts for the actual cost of providing service including, among other things, the costs associated with the serving the over-10 MW customer classes -- are of utmost importance to these customers.

Each of REACT's retail energy supplier members provides retail energy services to residential and small commercial customers in a number of other North American jurisdictions, and each is a potential participant in the residential and small commercial retail electric market in

and Wells Manufacturing Company. All of these REACT customer members participated in the 2007 ComEd Rate Case and the 2008 ComEd Special Investigation Proceeding as members of REACT. REACT's supplier members currently are Commerce Energy, Inc.; Integrys Energy Services, Inc.; and Interstate Gas Supply of Illinois, Inc. The positions stated herein do not necessarily represent the positions of any individual member of REACT.

the ComEd service territory. Rate design issues are of critical importance to these suppliers, to ensure a level playing field between retail suppliers and the incumbent supplier, ComEd.

Fair allocation of Customer Care Costs is particularly important. Inaccurate allocation of Customer Care Costs clearly advantages ComEd. Inaccurate allocation causes the price for the supply-related component of ComEd's bundled product (against which the suppliers compete) to be cross-subsidized by the delivery services or "wires" side of ComEd's business, which charges rates that all customers, including those of alternative suppliers, must pay. Improper allocation of supply-related Customer Care Costs to delivery services rates has several negative consequences, including: charging customers who choose to purchase energy from an alternative supplier for costs that should be borne only by customers receiving supply from ComEd; and hampering competition by creating an artificially low, and therefore, distorted, price comparison for ComEd customers who shop for alternative suppliers. In short, ComEd's improper allocation of its Customer Care Costs harms the competitive market, and thus harms all customers.

B. The Public Utility Act's Guiding Language

REACT will repeatedly reference and rely on the plain language of Section 16-108(c) of the Public Utility Act, which requires that ComEd's delivery rates be "cost based" such that the costs charged to customers reflect use of the "facilities and services associated with such costs."

The pertinent portion of Section 16-108(c) states:

Charges for delivery services shall be cost based, and shall allow the electric utility to recover the costs of providing delivery services through its **charges to its delivery service customers that use the facilities and services associated with such costs**

(220 ILCS 5/16-108(c) (emphasis added).)

Section 16-108 also requires that:

The Commission shall establish charges, terms and conditions for delivery services that are just and reasonable and **shall take into account customer impacts when establishing such charges**. In establishing charges, terms and conditions for delivery services, the Commission **shall take into account voltage level differences**.

(220 ILCS 5/16-108(d) (emphasis added).)

C. REACT's Witnesses

REACT has presented three expert witnesses in this case: Bradley O. Fults, Jeffrey Merola and Harry L. Terhune.

- **Bradley O. Fults.** Mr. Fults is the Managing Principal of Progressive Energy Solutions, LLC, an energy consulting firm that specializes in energy planning, energy pricing, contract negotiations, strategic planning, and other energy matters. Mr. Fults previously testified before the Commission on REACT's behalf in both the 2007 ComEd Rate Case and the resulting Special Investigation Proceeding (his testimony from those proceedings is attached as exhibits to his Direct Testimony in this proceeding). In this proceeding, Mr. Fults has presented both Direct and Rebuttal Testimony (REACT Exhibits 1.0C and 4.0, respectively), focusing on the unjustified and disproportionate rate increases that ComEd proposes for the Extra Large Load customer class.
- **Jeffrey Merola.** Mr. Merola is the Vice President of Intelometry, and leads Intelometry's Business Services Practice, which focuses on wholesale and retail marketing in the electric power and natural gas industries and includes management consulting expertise related to the operations and management of retail energy supply organizations. Mr. Merola previously testified before the Commission on REACT's behalf in both the 2007 ComEd Rate Case and the resulting Special Investigation Proceeding (his testimony from those proceedings is attached as exhibits to his Direct Testimony in this proceeding). In this proceeding, Mr. Merola has presented both Direct and Rebuttal Testimony (REACT Exhibits 2.0 and 5.0) focusing on the allocation of Customer Care Costs.
- **Harry L. Terhune.** Mr. Terhune is an independent consultant and owner of Terhune Consulting, LLC, which focuses on consultation with electric utilities in relation to planning, operation, and reliability matters affecting their transmission and distribution systems. Mr. Terhune is a licensed Professional Engineer who worked for ComEd from 1967 to 1998, where he held a wide variety of engineering and technical management positions, starting as a field engineer and local area planner and ending as the Manager of the Transmission and Distribution Planning Department. Mr. Terhune has also worked for Mid-America Interconnected Network (MAIN) as its Assistant Executive Director and American Transmission Company LLC as its Vice President-Operations. In this proceeding, Mr. Terhune presented both Direct and Rebuttal Testimony (REACT

Exhibits 3.0C and 6.0, respectively) focusing on the identification of ComEd assets used to serve the Extra Large Load customer class and the mechanisms through which ComEd recovers costs from such customers.

D. Issues Of Concern To REACT

REACT's principal issues of concern are as follows:

1. **ComEd's proposed rates impose an unjustified, massive, and disproportionate rate increase on its over-10 MW customers**, who have done nothing to deserve such massive increases.
2. **ComEd allocates significant costs to its over-10 MW customers that those customers simply did not cause.** In order to have its rates reflect cost causation as required by the Act, ComEd should study the assets used to serve the over 10 MW customer classes and allocate a fair share of those costs that the class caused based on that study.
3. **ComEd continues to over allocate its Customer Care Costs to the delivery function, as opposed to the supply function.** ComEd does this in two ways: (a) improperly advocating a "Switching Study" that allocates virtually zero costs to supply; and (b) preparing an alternative "Allocation Study" that fails to take into account significant costs and uses flawed allocators. **ComEd should be compelled to use the Allocation Study approach, as refined by REACT witness Mr. Merola.** ComEd's allocation does not reflect cost causation and has the effect of distorting the competitive market by disincentivizing switching.
4. **ComEd's proposal to charge the Illinois Electricity Distribution Tax as a per kWh fee rather than part of the demand charge will harm the largest customers and is inconsistent with ComEd's favored Straight Fixed Variable approach.**
5. Although ComEd's updated Distribution Loss Study is acceptable, the wild variations between the original loss factors and the updated loss factors based on ComEd's rebuttal testimony shows that **ComEd should be required to update its distribution loss factors annually.**

VII.

COST OF SERVICE AND ALLOCATION ISSUES

A. Overview

ComEd relies essentially on the same faulty Embedded Cost of Service Study ("ECOSS") approach that the Commission criticized in ComEd's 2007 Rate Case and the resulting Special Investigation Proceeding. Without sufficient verifiable support, the result of ComEd's ECOSS

would be to impose an unjustified, massive, and disproportionate rate increase on the over-10 MW customer classes, who have done nothing to deserve such increases. ComEd has repeatedly balked at providing appropriate information to determine whether its proposed rates for the over-10 MW customer classes are “cost based” as required by the Act.

- REACT witness Mr. Fults testifies that ComEd continues to sponsor essentially the same deeply-flawed ECOSS that faced heavy criticism in the 2007 Rate Case and the 2008 Special Investigation Proceeding. (See REACT Ex. 1.0C at 6:113-119, 12:264-20:521, citing sections of the Sept. 10, 2008 Final Order from the 2007 ComEd Rate Case, ICC Docket No. 07-0566, and the Apr. 21, 2010 Final Order from the 2008 Special Investigation Proceeding, ICC Docket No. 08-0532; *see also* REACT Ex. 4.0 at 6:131-135 (clarifying that updated “rebuttal testimony” ECOSS is still the same fundamentally flawed ECOSS).)
- REACT witness Mr. Terhune testifies that in order for rates be meet the Act’s cost-based requirement, ComEd must undertake a study to determine the assets used to serve the Extra Large Load customer class and then base its rates for non-Standard Service assets on the allocation that results from that study. (See REACT Ex. 3.0C at 23:563-27:567; REACT Ex. 6.0 at 3:60-65, 4:71-76, 6:129-7:151, 23:503-30:693.)

B. Potentially Uncontested Issues

Although ComEd and REACT disagree on many issues relating to ComEd’s proposed rates for the over-10 MW customer classes, REACT expects that neither ComEd nor any other party will contest the following:

- The customers in the over-10 MW customer classes have not individually or collectively materially changed operations or service requirements in any manner that would justify a disproportionate rate increase. (REACT Ex. 4.0 at 11:208-217; *see also* REACT Ex. 1.7-1.8 (expressing that rates from a similar ECOSS in ComEd’s 2007 Rate Case led to massive increases without congruent enhancements in service).)
- As detailed in Tables 1 and 2 of the Rebuttal Testimony of REACT witness Mr. Fults, ComEd plans to increase the delivery charges to each member of the Extra Large Load customer class by 75.2% to 84.3% (depending on customer size), and every member of the over-10 MW High Voltage class 29.0% to 46.7% (depending on customer size) over the rates from the ComEd’s 2005 Rate Case, ICC Docket No. 05-0597. (REACT Ex. 4.0 at 8:154-159 (Table 1), 10:189-194 (Table 2).)
- If the Commission accepts ComEd’s ECOSS and present allocations, rates for the Extra Large Load customer class will increase from over \$220,000 to more than \$1.875 million *per year per customer*, depending on load size. Over-10 MW High Voltage customers

will see increases ranging from nearly \$40,000 to over \$460,000 *per customer per year*, depending on load size, over the rates from ComEd's 2005 Rate Case, ICC Docket No. 05-0597. (REACT Ex. 4.0 at 7:137-8:160.)

- If ComEd seeks no further rate base increases in its next two Rate Cases and the Commission does not alter ComEd's ECOSS, Extra Large Load customer class members will see their rates increase from between 160% and 171% over rates from ComEd's 2005 Rate Case, ICC Docket No. 05-0597, which involves a dollar increase ranging from just under \$500,000 to nearly \$4 million *per year per customer*, depending on customer size. (REACT Ex. 4.0 at 2:27-34, 8:165-171.)

C. Potentially Contested Issues

1. Embedded Cost of Service Study Issues

a. Class Definitions

(ii) Non-Residential Classes

- ComEd proposes to establish one of more customer classes for those customers that take Primary service. REACT witness Mr. Terhune testifies that ComEd's proposal misses the point -- the primary/secondary split is at best a proxy for cost causation, but not as good as figuring out based on a similar methodology which assets are used to serve which classes. (See REACT Ex. 3.0C at 10:480-21:514, 27:639-657; REACT Ex. 6.0 at 6.0 at 35:805-40:936.)

b. Primary/Secondary Split

(i) Appropriate Methodology/Compliance with Docket No. 08-0532 [the Special Investigation Proceeding]

(a) Functional Identification of Costs

- ComEd conducted an investigation, based on several observation and sampling techniques, into assets used to serve primary service points. REACT witness Mr. Terhune testifies that the methodology that ComEd used to create the primary/secondary study demonstrates that ComEd can undertake a similar (although improved) study of assets used to serve the Extra Large Load customer class. (REACT Ex. 3.0C at 10:480-21:514, 24:574-27:657, REACT Ex. 6.0 at 30:695-33:759.)

(ii) Other Primary/Secondary Split Issues

(a) 4 kV Asset Allocation

- REACT witness Mr. Terhune testifies that 4 kV assets are not used to serve the Extra Large Load class at Standard Service, and would generally be recovered using Rider NS

for non-Standard Service. Although ComEd has not provided confirming data, it appears that only an insignificant portion of these 4 kV assets would both serve the Extra Large Load class and not be covered by Rider NS. (See REACT Ex. 3.0C at 17:411-414, 17:421-427, 18:450, 19:455, 21:516-23:558, REACT Ex. 6.0 at 11:247-15:332, 19:421-425, 27:620-629; REACT Ex. 6.1.)

c. Investigation of Assets Used To Serve Extra Large Load Customer Class

- REACT Witness Mr. Terhune testifies that each customer class has a “Standard Service” voltage at which the class members normally receive delivery service. The over-10 MW customer classes require a particular voltage for Standard Service, and only certain grades of assets can provide that particular voltage. Furthermore, because members of the over-10 MW customer classes normally have an onsite, single-user transformer (“ESS”) on their property, these customers do not use certain transformers for Standard Service, either. (REACT Ex. 3.0C at 9:182-13:322; 15:395-18:438; REACT Ex. 6.0 at 8:181-20:450; REACT Ex. 6.1.)
- Many members of the over-10 MW customer classes also take delivery at other voltages and require use of assets that would be unsuitable for Standard Service. Mr. Terhune testifies that many of these assets are taken out of base rate because they are billed directly to individual customers under Rider NS. Alternatively, other such assets are used by ComEd for its convenience because those assets’ use is less costly to the ComEd. ComEd has not provided the identity or magnitude of these assets. Finally, there are a small number of assets that are used to serve the over-10 MW customer classes that are not removed from Base Rate under Rider NS. (REACT Ex. 3.0C at 21:516-23:558; REACT Ex. 6.0 at 21:455-27:629, 29:661-682.)
- Currently, ComEd allocates to the over-10 MW customers a disproportionately large portion of assets that are unsuitable to provide Standard Service and that are not removed from rate base under Rider NS. (*Id.*)
- In order for ComEd to charge the over-10 MW customer classes for the costs those classes cause (no more and no less), ComEd should undertake a study to determine which assets are used to serve those classes (to the extent those assets are not removed from base rate under Rider NS or used for ComEd’s convenience), and these classes should be allocated their fair share of those costs to Act-compliant cost-based rates. (REACT Ex. 3.0C at 23:563-26:632; REACT Ex. 6.0 at 30:695-34:799, 39:909-40:936.)

d. NCP vs CP

- ComEd proposes use of NCP (non-coincident peak) and NCP-SEC (an altered non-coincident peak for secondary assets) allocators to allocate most of the costs for primary and secondary assets under its preferred rate design. REACT witness Mr. Terhune testifies that NCP is an appropriate methodology to allocate the primary distribution system, but not the secondary distribution system or for portions of the primary system

that are of insufficient grade to provide Standard Service to the Extra Large Load customer class. (See REACT Ex. 6.0 at 21:455-25:569.)

e. Allocation of Primary Lines and Substations

- REACT witness Mr. Terhune testifies that the Extra Large Load class does not make significant use of one- and two-phase primary lines or community substations with input voltage at or below 12 kV. Accordingly, the Extra Large Load class should not be allocated these costs based on NCP or CP (coincident peak); rather, the allocation should be proportionate based on an evaluation of assets used to serve the class. (See REACT Ex. 3.0C at 16:393, REACT Ex. 6.0 at 11:247-18:392, 23:517-24:547)

h. Allocation of Illinois Electricity Distribution Tax

- REACT witness Mr. Fults testifies that the Illinois Electricity Distribution Tax should be collected, as it has in ComEd up to this point, through a per kW (demand) charge rather than as a per kWh (volumetric) charge. ComEd's proposal will lead to confusion and increased expense for the Extra Large Load customer class and is inconsistent with Straight Fixed Variable ratemaking that ComEd proposes. (See REACT Ex. 1.0C at 28:677-30:723; REACT Ex. 4.0 at 17:344-18:373.)

j. Customer Care Cost Allocation

- REACT witness Mr. Merola testifies that Customer Care Costs "represent those costs ComEd incurs to provide customer service for its delivery and supply customers," and includes activities such as calculating/generating/mailling bills, maintaining customer information, payment and collection, and customer relations. (REACT Ex. 2.0 at 97-105.)

(i) Allocation Study vs. Switching Study

- REACT witness Mr. Merola explains that the Commission has previously examined ComEd's allocation of Customer Care Costs, and has expressed skepticism at ComEd's conclusion that nearly 100% of Customer Care Costs should be allocated to ComEd's delivery services function and almost zero of its Customer Care Costs should be allocated to the supply function under ComEd's preferred avoided cost methodology. Nonetheless, ComEd persists in claiming that Customer Care Costs should be allocated on an avoided cost basis using a "Switching Study" rather than on an embedded cost basis using an embedded (average) approach in its "Allocation Study", which is the approach that ComEd uses for virtually every other cost allocation. Mr. Merola testifies that ComEd's approach is unreasonable and that ComEd's Switching Study approach ignores the reality of future switching, fails to adequately reflect account cost causation, and harms the competitive market. (See REACT Ex. 2.0 at 15:323-17:364, 19:410-418, REACT Ex. 5.0 at 4:70-5:97, 9:179-16:325.)

(ii) Direct O&M Costs vs. Total Costs

- REACT witness Mr. Merola testified that when ComEd only included direct O&M costs in its Allocation Study and Switching Study, and therefore failed to allocate based on nearly 60% of the relevant costs that comprise Customer Care Costs. (REACT Ex. 2.0 at 9:192-10:199, 12:242-15:314, REACT Ex. 5.0 at 6:112-9:174.) In other words, ComEd has excluded a large portion of Customer Care Costs from consideration, even before ComEd undertook its flawed allocation approach.

(iii) Adjustment of Allocation Study Allocators

- REACT witness Mr. Merola also testifies that even ComEd's Allocation Study contains faulty and/or unsupported assumptions that do not reflect cost causation. Mr. Merola performed a more accurate and transparent Allocation Study, which the Commission should adopt as the best available study to allocate Customer Care Costs fairly and reasonably. Reallocation using Mr. Merola's adjustments leads to a significantly higher proportion of Customer Care Costs being allocated to the supply function. (See REACT Ex. 2.0 at 8:160-10:211, 11:223-227, 12:242-15:321, 17:366-19:418, 23:488-31:662; REACT 2.4C; REACT 2.5C; REACT 5.0 at 16:330-27:557.)

k. Other Docket 08-0532 Compliance Issues

- ComEd failed to comply with the Final Order in Docket No. 08-0532. That Final Order required ComEd to provide an updated ECOSS in its Rate Case filing, which included:
 - 1) direct observation or sampling and estimation techniques of ComEd's system to develop more accurate and transparent differentiation of primary and secondary costs; 2) other utilities' methods of differentiating primary and secondary systems and costs; 3) function based definitions of service voltages for facilities other than the line transformers already addressed; 4) an analysis of which customer groups are served by which system service components; and 5) consideration of redefining rate classes on the basis of voltage or equipment usage to better reflect the cost of service.

(ICC Docket No. 08-0532, Final Order at 40.) ComEd failed to provide the information that the Commission had ordered in a timely or complete manner.

D. Rate Moderation

- REACT witness Mr. Fults testifies that moderation does not make rates based on a flawed ECOSS any more valid. (REACT Ex. 1.0C, at 20:514-22:554, REACT Ex. 4.0, at 11:219-12:250)
- REACT witness Mr. Fults testifies that even with ComEd's claimed moderation of rate implementation, there is an extremely high-dollar impact on the over-10 MW customers (REACT Ex. 4.0 at 2:27-31, 6:116-10:206; *see also* REACT Ex. 1.0C, at 22:565-25:611 (discussing rate impact before ComEd adjustments in rebuttal testimony.) This is

contrary to the Act's requirement that the Commission "shall take into account customer impacts when establishing" delivery services charges. (220 ILCS 16-108(d).)

VIII.

RATE DESIGN

A. Overview

- ComEd's rate design is based on an improper allocation of costs for assets to the over-10 MW classes that customers in those classes rarely (if ever) use. ComEd should be required to investigate the assets used to serve these customers and charge the class its fair share for those assets. Proxies such as the primary/secondary split and related rate designs do not go far enough toward providing a cost basis, although the underlying ComEd study proves that ComEd can, in fact, provide a much more reasonable estimation of the assets used to serve. Unless and until ComEd provides sufficient cost causation information to prove that its rates are compliant with the Act, the Commission should not allow ComEd to raise the largest customers' rates beyond the system average.
- ComEd should be required to recalculate the distribution loss factor once a year to prevent large increases and decreases -- both of which happened in ComEd's own studies within the present rate case.

B. Potentially Uncontested Issues

Although ComEd and REACT disagree on many issues relating to ComEd's proposed rates for the Extra Large Load customer class, REACT expects that neither ComEd nor any other party will contest the following:

- The customers in the over-10 MW customer classes have not individually or collectively materially changed operations or service requirements in any manner that would justify a disproportionate rate increase. (REACT Ex. 4.0 at 11:208-217.)
- As detailed in Tables 1 and 2 of the Rebuttal Testimony of REACT witness Mr. Fults, ComEd plans to increase the delivery charges to each members of the Extra Large Load customer class by 75.2% to 84.3% (depending on customer size), and every member of the over-10 MW High Voltage class 29.0% to 46.7% (depending on customer size) over rates from the ComEd's 2005 Rate Case, ICC Docket No. 05-0597. (REACT Ex. 4.0 at 8:154-159 (Table 1), 10:189-194 (Table 2).)
- If the Commission were to accept ComEd's ECOSS and present allocations, rates for the Extra Large Load customer class would increase from over \$220,000 to over \$1.875 million *per year per customer*, depending on load size. Over-10 MW High Voltage customers would see increases ranging from nearly \$40,000 to over \$460,000 *per*

customer per year, depending on load size, over the rates from ComEd's 2005 Rate Case, ICC Docket No. 05-0597. (REACT Ex. 4.0 at 7:137-8:160.)

- If ComEd seeks no further rate base increases in its next two Rate Cases and the Commission were to accept ComEd's ECOSS without modification, Extra Large Load customer class members would see their rates increase from between 160% to 171% over rates from ComEd's 2005 Rate Case, ICC Docket No. 05-0597, which would result in a dollar increase ranging from almost \$500,000 to nearly \$4 million *per year per customer*, depending on customer size. (REACT Ex. 4.0 at 2:27-34, 8:165-171.)

C. Potentially Contested Issues

3. Class Definitions

b. New Primary Voltage Delivery Class vs Primary Subclass Charges

- ComEd proposes to establish one of more customer classes for those customers that take Primary service. REACT witness Mr. Terhune testifies that ComEd's proposal misses the point -- the primary/secondary split is at best a proxy for cost causation, but not as good as figuring out based on a similar methodology which assets are used to serve which classes. (See REACT Ex. 3.0C at 10:480-21:514, 27:639-657; REACT Ex. 6.0 at 35:805-40:936.)

4. Non-Residential

a. Movement Toward ECOSS Rates

(i) Extra Large Load and High Voltage Customer Classes

- REACT witnesses Mr. Fults and Mr. Terhune testify that the Commission should reject any increase in rates based on ComEd's ECOSS for the Extra Large Load customer class unless and until ComEd provides sufficient information and/or a study that verifiably evaluates the assets used to serve the Extra Large Load class. This study is a necessary prerequisite because ComEd's rates must be "cost based," meaning they must correlate to "the facilities and services associated with such costs." (220 ILCS 5/16-108(c).) In the last four proceedings in which ComEd's ECOSS has been examined, including three rate cases and a special investigation into its rate design, ComEd has faced strong and consistent criticism showing that its ECOSS fails to accurately establish cost based rates for its largest customers. (See REACT Ex. 1.0C at 12:264-20:521, 22:545-554, REACT Ex. 3.0C at 8:157-177, REACT Ex. 4.0 at 11:229-22:241; REACT Ex. 6.0 at 30:684-33:759.)

b. Allocating Secondary Costs Among Customer Classes

- REACT witness Mr. Terhune testifies that secondary costs, like all costs, should be allocated to each customer class proportionate with each class' causation of such costs. The Extra Large Load customer class uses a very low level of these assets, and many (if

not most) of these assets are taken out of rate base due to payments under Rider NS by individual customers. As a result, ComEd should conduct the study to determine the impact of the Extra Large Load customer class on the secondary system (removing Rider NS-funded assets) and allocate based on that finding to properly reflect cost causation. (See REACT Ex. 3.0C at 8:157-28:678; REACT 6.0 at 6.0 at 4:86-30:693.)

5. Collection of Illinois Electricity Distribution Tax

- REACT witness Mr. Fults testifies that the Illinois Electricity Distribution Tax should be collected, as it has in ComEd up to this point, through a per kW (demand) charge rather than as a per kWh (volumetric) charge. ComEd's proposal will lead to confusion and increased expense for the Extra Large Load customer class and is inconsistent with Straight Fixed Variable ratemaking that ComEd proposes. (See REACT Ex. 1.0C at 28:677-30:723; REACT Ex. 4.0 at 17:344-18:373.)

6. Distribution Loss Factors

- During the course of this proceeding, ComEd has updated its Distribution Loss Study. ComEd should be ordered to update its Distribution Loss Factor to the Commission every year. Both the large increase in ComEd's original Distribution Loss study and the subsequent large decrease in the updated Distribution Loss study released as part of ComEd's rebuttal testimony highlights concerns about the accuracy of ComEd's historic and current cost allocation approach and implementation, and underscores the need for the Commission to order ComEd to provide transparent, verifiable data about assets use by particular customer classes. (See REACT Ex. 1.0C at 30:728-33:799, REACT Ex. 4.0 at 18:377-20:423.)

10 Docket 08-0532 Compliance Issues

- ComEd failed to comply with the Final Order in Docket No. 08-0532. That Final Order required ComEd to provide an updated ECOSS in its Rate Case filing, which included
 - 1) direct observation or sampling and estimation techniques of ComEd's system to develop more accurate and transparent differentiation of primary and secondary costs; 2) other utilities' methods of differentiating primary and secondary systems and costs; 3) function based definitions of service voltages for facilities other than the line transformers already addressed; 4) an analysis of which customer groups are served by which system service components; and 5) consideration of redefining rate classes on the basis of voltage or equipment usage to better reflect the cost of service.

(ICC Docket No. 08-0532, Final Order at 40.) ComEd failed to provide the information that the Commission had ordered in a timely or complete manner.

- REACT witness Mr. Fults testifies that ComEd proposes essentially the same deeply-flawed ECOSS that the Commission rejected in the 2007 Rate Case. (See REACT Ex. 1.0C at 12:264-20:521, REACT Ex. 4.0 at 6:131-135.)

XI.

CONCLUSION

REACT requests that the Commission equitably, and accurately, allocate the costs that ComEd incurs to provide service to its customers, consistent with the Act's mandate that ComEd's delivery services rates be cost based. At a minimum, REACT respectfully requests that the Commission take the following five (5) steps:

- The Commission should reject ComEd's latest unjustified, massive, and disproportionate proposed rate increases for ComEd's over-10 MW customers.
- The Commission should stop ComEd's practice of allocating costs to the over-10 MW classes that the members of those classes did not cause, by ordering a study of assets used to serve those classes; based upon that study, the Commission will be able to order a rate design that establishes cost based rates that are compliant with the Act.
- The Commission should reject ComEd's proposed Switching Study for Customer Care Costs, and instead adopt the Allocation Study with REACT witness Mr. Merola's proposed alterations to the cost allocators.
- The Commission should prevent ComEd from altering the way it currently charges its customers for the Illinois Electricity Distribution Tax.
- The Commission should require ComEd to update its distribution loss factor annually.

Respectfully submitted,

THE COALITION TO REQUEST EQUITABLE ALLOCATION OF COSTS TOGETHER

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